IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23078 of 2004

Between:

B. Yellaiah, S/o. Rajagangaram,
E.No. 334568, R/o. 1-9-3/7, Post & Village, Essapally Mandal,
Armoor, Nizamabad District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Karimnagar.
2 The Depot Manager, APSRTC Bus Depot, Metpally, Karimnagar District.
3 The Depot Manager, APSRTC Bus Depot, Armoor, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI, quash the proc. NO. T1/292(5)/95-MTL dt. 27-3-1996 as confirmed by the 1st respondent proc. No. PA/19(18)/02-RM-KR dt. 08-7-2004 as arbitrary, unjust, in violation of Art. 14, 16 & 21 of the Constitution of India and consequently direct the respondents to restore the deferred increments along with all consequential benefits.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent Nos.1 to 3: SMT.P.RAJANI REDDY, STANDING COUNSEL

The Court at the stage of admission, made the following :

ORDER:

This writ petition is filed to issue a writ of certiorari and consequently direct the respondents to restore the deferred increments along with all consequential benefits by quashing proceedings No.T1/292(5)/95-MTL dated 27.3.1996 as confirmed in Proceedings No.PA/19(18)/02-RM-KR dated 8.7.2004 as arbitrary, unjust.

By rash and negligent driving of the writ petitioner while driving the bus No.AEZ 1962 on 20.8.1995, a fatal accident was caused. Therefore, the 2nd respondent issued a charge sheet calling for the explanation of the petitioner. The petitioner gave his explanation. Having not satisfied with the said explanation, the 2nd respondent imposed on the petitioner the punishment of withholding of increment for a period of two years which shall have effect on future increments. Challenging the same, the petitioner filed an appeal before the 3rd respondent and thereafter review before the 1st respondent. But the same were dismissed. Aggrieved by the same,

the present writ petition is filed.

The learned counsel for the petitioner contended that imposing punishment without conducting any enquiry is not sustainable and therefore prays to convert the major punishment to one under minor punishment.

The learned counsel appearing for the respondent-corporation opposed the same on the ground that as explanation of the writ petitioner was not satisfactory, the disciplinary authority passed impugned proceedings and does not suffer from any legal infirmities so as to call for interference by this Court.

Admittedly, no enquiry is conducted with regard to the misconduct alleged against the petitioner. It is well settled that imposing major penalty without conducting departmental enquiry is against the statutory rules and also unsustainable. Since imposing punishment of withholding of increment for a period of two years with cumulative effect amounts to a major penalty, which ought not to have been imposed without conducting any enquiry as the 2nd respondent did not conduct any enquiry and the accident took place in the year 1995 and thereafter it seems the petitioner was already acquitted by the Criminal Court, a minor penalty can be imposed. Hence, the penalty imposed by the 2nd respondent and as confirmed by the 1st respondent is modified to that of withholding of increment for a period of two years without cumulative effect. The 3rd respondent shall implement the same under whom the petitioner is working.

Accordingly, the writ petition is disposed of. No costs.

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14.12.2004

bsv

TO

1 The Regional Manager, APSRTC, Karimnagar.
2 The Depot Manager, APSRTC Bus Depot, Metpally, Karimnagar District.
3 The Depot Manager, APSRTC Bus Depot, Armoor, Nizamabad District.

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